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OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7109**  
**BILL NUMBER: SB 391**

**NOTE PREPARED: Apr 30, 2023**  
**BILL AMENDED: Apr 27, 2023**

**SUBJECT:** Charter Schools.

**FIRST AUTHOR:** Sen. Rogers  
**FIRST SPONSOR:** Rep. Behning

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
                          X DEDICATED  
                          FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Referendum Revenue Sharing:* This bill provides that, for a resolution to adopt a school operating referendum tax levy or school safety referendum tax levy adopted after May 10, 2023, a county auditor must distribute a portion of revenue received from the school operating referendum tax levy or school safety referendum tax levy to each charter school in which students who receive not more than 50% virtual instruction and who have legal settlement in certain school corporations attend. It provides that if a charter school receives a distribution from a school corporation from a school operating referendum tax levy or a school safety referendum tax levy, the charter school must post certain information on the charter school's website. It also provides that a charter school that may receive money from a school operating referendum tax levy or a school safety referendum tax levy may not promote a position on a referendum, in the same manner as a school corporation is prohibited from promoting a position on a referendum.

*Charter Length:* The bill provides that the maximum length of a charter is 15 years. (Current law provides that the maximum length of a charter is seven years.)

*Bond Bank Loans:* This bill provides all charter schools access to loans through the Indiana Bond Bank (IBB).

*Common School Fund Loans:* The bill provides that the State Board of Education (State Board) may advance money to charter schools to be used for:

- (1) School building construction programs; and
- (2) Educational technology programs.

The bill also amends the definition of "school building construction program" to:

- (1) Include the purchase, lease, or financing of land, the construction and equipping of school

buildings, and the remodeling, repairing, or improving of school buildings by a charter school; and  
(2) Replace "adjusted assessed valuation" with "assessed valuation" with regard to school corporation eligibility for an advance from the Common School Fund.

It provides that a charter school may not receive an advance from the Common School Fund for an educational technology program unless the charter school develops a three year technology plan. This bill provides that a school corporation may not (instead of is not entitled to) receive or use certain money or advances unless the school corporation develops a three year technology plan. It makes conforming changes regarding advances to charter schools from the Common School Fund.

*Sale or Lease of School Buildings:* This bill establishes standards concerning when a school corporation may close an underutilized school building that had been used at any time for classroom instruction. The bill provides procedures regarding petitioning for a determination as to whether a school building meets criteria for closure or should be made available for sale or lease. It requires the Department of Education (DOE) to make a determination regarding a petition. This bill also requires each school corporation to annually report to the DOE certain information regarding school buildings. The bill provides procedures for notifying charter schools or state educational institutions through the DOE of the availability of a covered school building. It provides for appeals of certain orders or decisions to the State Board. It also provides that the:

(1) DOE; or

(2) Selected charter school or state educational institution;

may request the Attorney General to commence a legal action to enforce a final order for the sale or lease of a covered school building or file a civil action to enforce the final order for the sale or lease after certain time periods. The bill repeals certain provisions regarding investigating complaints and enforcement by the Attorney General.

*Charter School Facility Grant Program:* This bill establishes the Charter School Facility Grant Program.

It makes conforming amendments. It makes a technical correction.

**Effective Date:** Upon passage; July 1, 2023.

**Explanation of State Expenditures:** *Charter School Facility Grant Program:* The bill establishes the Charter School Facility Grant Program to provide grants to charter schools (excluding virtual and adult charter schools). The grants can be used by a charter school for the same purposes that a school corporation can use money in the school's operations fund or debt service fund. The bill specifies that the grants will be proportionally distributed to charter schools based on their non-virtual ADM. LSA estimates that there will be about 29,000 and 29,700 non-virtual charter students in FY 2024 and FY 2025, respectively. This estimate excludes the students attending Indianapolis Public Schools (IPS) innovation network charter schools, as they are counted in the ADM of IPS. [HEA 1001-2023 appropriated \$25 M in FY 2024 for charter school capital grants].

*Common School Fund Loans:* This bill allows charter schools to apply to receive an advance from the Common School Fund for school building construction and educational technology programs. This could increase the number of entities that apply for an advance from the Common School Fund and could create minor workload increases for the Department of Education (DOE), State Board of Education (State Board), and Office of the Treasurer of the State.

*Bond Bank Loans:* The Indiana Bond Bank (IBB) could receive more applications for loans under the bill,

resulting in a minor workload increase. The IBB is a quasi-state agency whose primary purpose is to assist local units of government obtaining low-cost financing for their operations. The IBB operates as a financing conduit purchasing the bonds and notes of local units, and in turn, issuing the IBB's obligations to the market. This is done to leverage the economies of scale and achieve low borrowing costs. The IBB is a self-funded entity and does not receive any appropriations from the state of Indiana.

*Sale or Lease of School Buildings:* Beginning in FY 2024, the DOE and the State Board are assigned additional duties regarding the potential sale or lease of certain vacant, closed, or underutilized school buildings for \$1. The bill's requirements are within the agencies' routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

*Referenda Revenue Sharing:* The bill requires the DOE to provide data and projections on the number of students who have legal settlement within a given school corporation but attend a charter school. The bill also requires the DLGF to prescribe the manner in which the projection is calculated. These workload increases are anticipated to be completed with existing staff and resources.

*Charter Length:* By increasing the maximum length of a charter from 7 to 15 years, charter school authorizers could experience a minor workload decrease. The Charter School Board and State Educational Institutions (SEIs) that offer four-year Bachelor's programs are allowed to act as a charter school authorizer. [SEIs receive state funding through General Fund appropriations.]

*State Educational Institutions:* To the extent that provisions in this bill increase the number of buildings available to be leased or purchased by SEIs for \$1, this bill could decrease the future expenditures of an SEI if it wanted to purchase or lease a school building for academic purposes.

*Attorney General:* In FY 2024, this bill repeals current law that requires the Office of the Attorney General to certify school corporations' plans for their vacant or unused school buildings. Statute requiring the Attorney General to investigate complaints about a school corporation's compliance with these provisions is also repealed. This represents a marginal reduction in the workload of the Office of the Attorney General.

#### Additional Information -

*Common School Fund Loans:* Currently, the DOE reviews loan advancement applications from schools and refers them to the State Board for approval. Once approval has been granted, the Office of the Treasurer of State works with the schools to provide the funds and prepares the amortization schedules for paying back these funds.

In FY 2022, \$3 M in school building construction loans were awarded to 2 schools and \$30 M in educational technology program loans were awarded to 55 schools. The maximum advancement from the school building construction program per eligible school is the greater of \$15 M or \$15,000 multiplied by the ADM of impacted students. There is no maximum limit for educational technology program advancements.

**Explanation of State Revenues:** *Common School Fund Loans:* Revenues for the Common School Fund may increase due to the interest payments made by charter schools who receive a Common School Fund advance as a result of this bill. Common School Fund construction loans can have interest rates up to 7.5% percent while interest rates for the educational technology programs can range between 1% to 4%. As of June 30, 2022, the average interest rate for construction loans was a little over 4% and all technology loans had an

interest rate of 1%. The state earns interest on money in the Common School Fund, so the impact on revenue to the fund is dependent on the difference between the loan interest payments and what would have been earned if the money had not been loaned to charter schools under the bill. For reference, the average yield to the General Fund from FY 2015 through FY 2022 ranged from 0.17% to 1.96% and was 0.36% in FY 2022.

**Explanation of Local Expenditures:** *Common School Fund Loans:* Charter schools receiving Common School Fund advancements are required to pay the loan back with interest. [See *Explanation of State Revenues* for more information regarding the interest rates for applicable Common School Fund advancements.]

*Bond Bank Loans:* Under current law, charter schools that are sponsored by the Indianapolis Mayor's Office are not eligible for loans through the IBB. Those charter schools currently have access to loans through the Indianapolis Local Public Improvement Bond Bank. The bill's provision giving these charter schools access to loans through the IBB could decrease expenditures of the charter schools to the extent the charter schools are able to attain lower borrowing costs through the IBB.

*Charter Length:* State law allows school corporations (upon approval by the State Board) and the Indianapolis Charter School Board to authorize charter schools. Both could experience a minor workload decrease under the bill. [See *Explanation of State Expenditures* for further details.]

*Referenda Revenue Sharing:* Eligible public schools who elect to participate in an operating or public safety referendum as prescribed in this bill are required to post a disclosure statement on their website. Participating charter schools are also required to contribute a proportionate share of costs to conduct the referendum, to post onto their website the specific purpose(s) for which the money will be used, and an estimate of the annual dollar amounts for each specified purpose. Any fiscal impact to public schools resulting from these provisions will ultimately depend on local action.

*School Corporations:* School corporations that are required to sell or lease a school building for \$1 to an eligible entity due to this bill's provisions will have reduced costs associated with maintaining and operating a school building. This bill also repeals provisions that required public schools to certify their plans for vacant or unused buildings with the Office of the Attorney General, which will marginally reduce the workload for school corporations. These savings are offset by additional administrative costs to school corporations from compiling data:

- (1) Regarding how their school buildings are being utilized and submitting the data to DOE in an annual report; and
- (2) To support their claims in an appeals process in the event that a building's status is disputed.

The fiscal impact to school corporations is ultimately dependent on local action.

*Charter Schools:* To the extent that provisions in this bill increase the number of buildings available to be leased or purchased by charter schools for \$1, this bill could decrease the future expenditures of a charter school to purchase or lease a school building.

**Explanation of Local Revenues:** *Referendum Revenue Sharing:* Under this bill, revenue from an operating or school safety referendum in Lake, Marion, St. Joseph, or Vanderburgh County for which a resolution was adopted after May 10, 2023, would be proportionally shared with a charter school that participated in the referendum and enrolled a student who lives in that school district. Virtual charter schools and adult high

schools are prohibited from receiving a distribution under the bill. The fiscal impact on charter schools and school corporations will be dependent upon which school corporations pass or extend referenda in the future, ADM shifts between school corporations and charter schools, and the tax rates imposed.

*Charter School Facility Grant Program:* Under this bill, eligible charter schools could experience an estimated revenue increase. [See *Explanation of State Expenditures* for further details].

*School Corporations:* If a school corporation sells or leases a building for \$1 to an eligible entity, the school may experience a revenue decrease dependent upon how much the school would have otherwise received if it had sold or leased the building at a market rate. If an entity that buys or leases a school building in this manner does not meet certain utilization thresholds after five years, the school corporation may petition DOE to reclaim the school building.

The bill provides that school corporations who share revenue from an operating or school safety referendum with eligible charter schools are not subject to state statute requiring school corporations to sell or lease certain buildings for \$1.

*Common School Fund Loans:* Current law requires a school corporation to either have suffered a loss from a disaster or be in the bottom 40% of school corporations in adjusted assessed valuation per ADM in order to qualify for a construction loan from the Common School Fund. The bill's replacement of adjusted assessed valuation with assessed valuation could impact which schools are eligible to receive a loan.

#### Additional Information -

*Referendum Revenue Sharing:* Using student-level FY 2022 ADM data, LSA simulated what the bill's impact would have been on existing school operating and school safety referenda revenue in 2022 if all the referenda levies were shared as prescribed in the bill with all eligible charter schools. In 2022, school corporations located in Lake, Marion, St. Joseph, and Vanderburgh counties received \$210.1 M in school operating or safety referenda revenue. Under the bill, those school corporations would have distributed about \$23.9 M to charter schools. While current law allows a school corporation to share operations fund revenue with charter schools, this analysis assumes school corporations would have retained all their referenda revenue under current law. Indianapolis Public Schools recently began sharing some of its revenue with innovation network charter schools.

*Common School Fund Loans:* A school corporation's adjusted assessed valuation is the assessed valuation multiplied by the school corporation's adjustment factor. The adjustment factor is determined by the DLGF under the following formula:

- (1) The total assessed valuation of the property within the school district; divided by
- (2) The total true tax value which the DLGF determines would result if the property within the school district were valued in the manner provided by law.

**State Agencies Affected:** State Educational Institutions that authorize charter schools; Charter School Board; Department of Education; Department of Local Government Finance; State Board of Education; Office of the Treasurer of the State; Office of the Attorney General; Indiana Bond Bank.

**Local Agencies Affected:** Public schools; County auditors.

**Information Sources:** Indiana Auditor of State, Annual Comprehensive Financial Report.

<https://www.in.gov/auditor/files/Entire-Annual-Comprehensive-Financial-Report-2022.pdf>

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